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EXAMINER

VAN DOREN, BETH

| ART UNIT | PAPER NUMBER |
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3623

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,043

Applicant(s)

BRINKERHOFF, RICHARD

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13, 18-30 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 13, 18-30 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 20050204
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final office action in response to the after-final communications received 02/14/05. The after-final amendment has been entered and the finality of the 01/11/05 office action removed. Claims 1, 5, 13, 18, 30, 32, and 33 have been amended. Claims 36-40 have been cancelled. Claims 1-9, 11-13, 18-30, and 32-35 are pending in this office action.

Response to Arguments

2. **Before responding to arguments, examiner would like to discuss the limitations of independent claims 18, 30, 32, and 33.**

Claim 18 recites that an order from a customer is received over a network to purchase an item from an electronic catalog. Claim 18 then recites “inferring, using information stored in a database, when the customer has evaluated the item based at least in part on one or more of a characteristic of the item or a subsequent purchase of an item”. Therefore, claim 18 derives a conclusion using data in a database as to when the customer has evaluated the item. However, without specific recitation of how this deriving is performed, the data in the database could merely indicate a purchase of a certain item occurring. An electronic review request is provided at a time spaced apart from the order based on the derived conclusion. However, again a specific time period is not disclosed, so allowing a customer access to a review form just after an order is completed does satisfy the claim limitation (i.e. there is no recitation requiring that the ordered item is delivered and/or used at the time the review request is available/provided).

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Further, Examiner points out that the review request of claim 18 is non-functional descriptive matter. MPEP § 2106 states that when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. With regards to claim 18, an order for an item is received, an inference is made, a review request is provided over the network, and the review is received. Therefore, the process of providing and receiving does not change, regardless of the item being sent out and returned. Therefore, the fact that the item is a review request is nonfunctional descriptive matter and will not distinguish the invention from the prior art.

Claims 30, 32, and 33 contain similar language to claim 18 and therefore the above statement applies to claim 30, 32, and 33 as well.

3. Applicant's arguments with regards to the rejections based on Klingman, Geerlings (U.S. 5,956,693), Epinions.com (screenshots of www.epinions.com from archive.org), and Chislenko et al. (U.S. 6,092,049) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that (1) Klingman does not disclose providing textual reviews to other customers, and further does not present a first customer review in a group of reviews to a second customer interested in the item, (2) Klingman does not teach initiating an electronic transmission to a user based at least in part on the estimated date by which the first customer will have at least initially evaluated the item, or "providing a review request in response to at least the inference at a time spaced apart from the order" because Klingman accepts reviews through the clicking of a score button that is displayed whenever the web page is displayed, whether or not the

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user has purchased the product or has had time to evaluate the product, (3) Klingman's score button is not provided "over a network [as] an electronic review request in response to at least the inference at a time spaced apart from the order", (4) As per claim 24, Klingman does not perform the claimed inference and therefore does not base the inference at least on an estimation of how long it will take to evaluate the purchased item, (5) Examiner has failed to provide adequate motivation to modify Klingman with the disclosure of Geerlings, Klingman has no need for the planning and scheduling system of Geerlings, and further Klingman does not disclose the review requests are intended to efficiently achieve marketing goals, (6) As per claim 27, Klingman does not make an inference of when the customer has evaluated a first item, much less an inference based at least in part on the customer ordering a second item, (7) As per claim 34, Klingman and Geerlings do not teach, alone or in combination, receiving at least one email address provided by the first customer, the email address being that of a person other than the first customer, forwarding the review to the email address, or gifts, (8) there is no motivation to combine Klingman with Epinions, (9) Klingman and Chislenko et al. do not teach every element of claim 28, (10) Klingman has no need to estimate a date based at least in part on the length of a book as claimed, and (11) since Klingman and Geerlings are not concerned with inferring when the customer has evaluated the item, the references do not teach the item being a car, video, or audio recording and do not teach the act of inferring being related to an estimated time it takes the customer to drive a first amount, to view the video, or listen to the audio recording.

In response to argument (1), Examiner respectfully disagrees. Klingman teaches that a buyer can enter rating information and comments into the electronic form.

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The rating information and comments relating to the product are stored in the system and displayable to the next buyer. See at least figures 5, 8C, and 8D, column 11, lines 1-7 and 30-45, column 13, lines 9-15 and 40-49, column 14, lines 27-30, column 18, lines 1-10, and column 21, lines 10-20. Examiner points out that “comments” are written notes intended as an explanation, a statement of fact or opinion, especially a remark that expresses a personal reaction or attitude (i.e. words). See specifically figure 5, which shows a display of what specifically a user of the system would see, including comments.

In response to argument (2), Examiner respectfully disagrees. Examiner agrees with the Applicant that the “Score” button is displayed at all times when viewing the web page. However, the functionality of this button (i.e. the linking to a review request form) is only accessible once a customer has purchased an item. See figure 5, column 4, lines 20-25 and 55-62, column 9, lines 5-35 and 40-65, column 10, lines 40-41, and column 11, lines 1-10. Therefore, a customer does not have the ability to providing a review until after he/she has purchased an item. As for whether or not the reviewer has had time to review the item, Examiner points out that from a technical point of view the claimed invention does not include a way to validate the use of the item before review, whether the review request is offered the moment after purchase or 50 days after purchase. For example, a person ordering a book may not read the book right away, so regardless of an inference or estimation on how long it takes a person to read that book, there is no way to validate at the time of review that the user did, in fact, use the item. Therefore, the claimed invention, just like Klingman, is based on an assumption. Examiner further points out that none of the independent claims, preclude the estimated or inferred time from being just after purchase. Examiner maintains that Klingman teaches the elements

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set forth above in the 103 rejection because Klingman states that after an assumed period of use the customer will evaluate the quality of a purchased item and wish to rate the purchased product. Therefore, Klingman estimates and infers the time that the review request would be made available as the time just after purchase, using the purchase data stored in the database. See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59.

In response to argument (3), Examiner respectfully disagrees. The claim limitation specifically recites “providing over the network an electronic review request in response to at least the inference at a time spaced apart from the order, wherein the review request requests that the customer provide a review of the purchased item and includes a link to an electronic review form”. As discussed above, the review request is not accessible to the user until a time after the purchase of the item. Therefore, when the customer/purchaser clicks on the “Score” button at a time after the purchase, the customer is linked to an electronic review form. See figure 8c, column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 4-10, which disclose providing a review request at a time after purchase/ordering (after verifying that the customer has previously purchased the item). The review request asks the customer to provide feedback (a review) about their impression of the item.

In response to argument (4), Examiner respectfully disagrees. First, Examiner again points out the discussion above with regards to the claim term “inference”. To reiterate, there is no recitation in claim 18 as to how “inferring” occurs (i.e. in someone’s head, randomly, using specific formulas, facts, or functions, etc.). Therefore, Klingman does teach “inferring when the customer has evaluated the item” when it assumes that the

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customer is ready to evaluate the item after purchase. Klingman states that after an assumed period of use the customer will evaluate the quality of a purchased item, but infers that the review request would be made available at the time just after purchase. Claim 24 states that the inference is based at least in part on an estimation of how long it will take to evaluate the purchased item. Again, Klingman makes the judgment that after the user purchases the item, the purchaser is able to assess and rate the purchased item.

In response to argument (5), In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Klingman discloses a system that records identification of a purchase by a customer and allows a purchasing customer to rate the purchased item after an assumed period of use of the purchased item. Geerlings discloses scheduling and planning communications with customers at a certain period of time after the purchase of a specific product. Therefore, both Geerlings and Klingman discuss communications with a purchaser after purchase. Geerlings suggests in column 3, lines 25-40, that follow-up communications are a source of achieving marketing goals. Klingman also desires purchasers to rate items for later customer sales. Geerlings further discusses the timely follow-up communications with purchasers. Since both systems intend to communicate with a purchaser after purchase, there is motivation to combine the references.

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In response to argument (6), Examiner respectfully disagrees. First, Klingman does teach making an inference, as explained above. Second, claim 27 does not specifically recite how the ordering of the second item affects the inference. It is not required by the claim language that the purchase of the first item and the purchase of the second item mutually affect the inference made. The system could, based on the claim language, simply perform a first inference with the first purchase and a second inference with the second purchase. If a more specific interaction is intended, Examiner suggests clearly reciting it in the claims.

Furthermore, Klingman discloses a customer entering information into an order form (column 14, lines 41-46) and storing a Customer ID in an id table about the purchase so the customer would later review the purchased product (column 10, lines 45-65). Geerlings teaches making an inference based on the customer ordering multiple items (See at least column 10, lines 15-20). Therefore, since Klingman discloses a system that records identification of a purchase by a customer and allows a purchasing customer to rate the purchased item, since Geerlings discloses scheduling communications based on behavior and shopping patterns of the user, and since the claims, as recited, contain no specific relationship between the purchase of the first item and second, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references.

In response to argument (7), Examiner respectfully disagrees. Klingman discloses reviews of purchased items by customers who use the items, as discussed in column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18). Geerlings discloses receiving at least one e-mail address provided by the first customer,

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the email address being the preferred communication channel of the user, and forwarding the communication after purchase to the e-mail address. See column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 6, lines 1-15, wherein an email address is provided by the first user and the communication is sent to this email address. Klingman discloses a system that records identification of a purchase and allowing a purchasing customer to rate the purchased item after a period of user (i.e. Since Klingman ensures that a rater has actually bought and preferably used the product, Klingman is concerned with the user performing the rating). Geerlings discloses scheduling and planning communications with customers based on specific product purchases and provided email addresses (i.e. information is provided and recorded at time of purchase and used for further communications). It is known in the art of e-commerce that a purchaser will provide "bill to" and "ship to" contact information at the time of purchase and that these will be different in the case of a gift purchase. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user of the product with the review request (i.e. targeted communication) in order to more efficiently achieve marketing goals by ensuring that pertinent and timely communications are made to customers who are users of the product. See at least column 3, lines 25-40, of Geerlings, and Klingman, column 9, lines 5-20 and 40-50.

In response to argument (8), Examiner respectfully disagrees. Since Klingman discloses a system that allows the purchasing customer to rate a purchased item and allows other users to view this rating and since Epinions presents a user a group of opinions in an ordered and identifiable manner, it would have been obvious to one of

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ordinary skill in the art at the time of the invention to combine the teachings of the references. Furthermore, there is motivation to combine these references because Klingman does disclose presenting reviews to other users of the system, as does Epinions. Epinions merely teaches a different design choice for presenting the reviews. Therefore, since Klingman is capable of providing reviews, it would have been obvious to one of ordinary skill in the art at the time of the invention to present the reviews of Klingman using the format of Epinions.

In response to argument (9), Examiner respectfully disagrees. Klingman teaches allowing a user to rate a previously purchased item. See at least figure 5, column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying that the prospective reviewer purchased the item before allowing a score to be entered. The purchaser has the ability to choose to rate the item or not based on the way they feel towards the product. See column 10, lines 41-46. Chislenko et al. teaches a method further comprising presenting to the customer a list of items purchased by the customer and asking the customer if the customer wants to review one or more of the listed items. See column 4, lines 5-9, which disclose presenting a customer with a list of items and asking the customer to rate the list of items. Therefore, Klingman and Chislenko et al. do teach and suggest all the claim limitations.

In response to argument (10), Examiner respectfully disagrees. Klingman discloses follow-up communications with customers after the purchase of items, such as books. Further, Klingman specifically states that a user forms an opinion about the quality of a purchased item after a period of use of the item in column 8, lines 22-25,

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column 9, lines 9-13 and 41-46, and column 20, lines 55-59, and then, after forming an opinion, the purchaser would review the item. Since it is old and well known that a common way to use a book is to read the book and the time this usage (reading) takes depends on factors such as its length, it would have been obvious, based on the teachings of Klingman, to estimate a date using the length of the book. Geerlings further discloses timed communications based on the specifics of the item purchased. See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 13, lines 45-55.

In response to argument (11), as discussed above, Klingman does infer a period of use of a purchased item before reviewing said item. Klingman discusses customers providing evaluations for purchased items after a period of use, as stated in column 4, lines 60-62, and column 9, lines 40-45. Geerlings further discusses scheduled follow-up communications for purchased items at a specific length of time after purchase, this timing based on the specific item purchased. Since it is old and well known that a car, a video, and an audio recording are items orderable over a network and that common ways to use these items are to drive, to watch, and to listen, respectively, it would have been obvious to one of ordinary skill in the art at the time of the invention to consider this feature when inferring usage and evaluation of the item in order to increase the reliability of the review provided by the user.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 18, 30, 32, and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 18 recites “inferring, based on information stored in a database, when the customer has evaluated the item”. This limitation is indefinite because the act of inferring is not a distinct and exact action and therefore it is unclear what is specifically occurring the claim. Inference is a subjective term defined as to conclude from evidence or to reason from circumstance. Therefore, inferring would be performed in many ways (i.e. using a computer, in someone’s mind, etc.) and would result in many different results based on the person or technique utilized to infer. Therefore, the act of inferring does not produce a repeatable and specific time-based quantity that satisfies the term “when” of the limitation. Clarification is required.

6. Claims 30, 32, and 33 also recite “inferring” and are rejected under 35 U.S.C. 112, second paragraph, using the same rationale above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Geerlings (U.S. 5,956,693) and Instant Survey.**

The following references disclose the aspects and features of InstantSurvey:

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i. **“A few well-placed questions” from *Inc.* (referred to herein as reference A);**

ii. **“NetReflector’s www.InstantSurvey.com goes live today” from Business Wire (referred to herein as reference B).**

9. As per claim 13, Klingman teaches a method of encouraging customers to provide reviews of purchased items, the method comprising:

receiving over a network an order from a first customer for an item purchased from an electronic catalog (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog.

Identifications about these orders are stored in a table);

estimating that the first customer will have at least initially evaluated the item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that after a period of use the customer has evaluated the quality of a purchased item);

initiating an electronic transmission, based at least in part on the estimated date, to the first customer on or after the estimated date requesting the first customer to provide a review of the item to thereby encourage the first customer to provide at least one review, wherein the transmission includes a link to an electronic review form and activation of the link by the first customer causes the review form to be presented to the first customer (See at least figure 5, column 4, lines 20-25 and 55-62, column 9, lines 5-35 and 40-65, column 10, lines 40-41, and column 11, lines 1-10, which disclose providing a review request at a time after purchase/ordering (after verifying that the customer has previously

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purchased the item, thus the system knows that the customer has had the opportunity to use the item and come to an opinion about its quality), said review request asks the customer to provide feedback (a review) about their impression of the item. The system electronically transmits and links between the interfaces of the system);

receiving the review from the first customer electronically (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer); and

individually presenting the first customer review in a group of reviews to a second customer interested in the item (See at least figure 5, column 9, lines 30-35 and 41-46, column 11, lines 1-7 and 30-45, column 12, lines 18-30 and 50-63. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item).

wherein the item is a book, a time to evaluate an item after purchase, and a time to infer when the customer has evaluated the item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item. See column 12, lines 35-42, wherein the item purchased and reviewed is a book).

However, while Klingman discloses a book, time to evaluate an item after purchase (see column 9, lines 41-46) before reviewing, and linking to a review form, Klingman does not expressly disclose estimating a date for the communication to take place based at least on the item type and in part on the length of the book or that the

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electronic transmission is a message that includes the link to the review form and activation of the link in the message causes the review form to be presented.

First, InstantSurvey discloses initiating an electronic transmission of a message to a first customer on or after a scheduled date requesting the first customer to provide a review of a product or service to thereby encourage the first customer to provide at least one review, wherein the message includes a link to an electronic review form and activation of the link by the first customer causes the review form to be presented to the first customer (See at least reference A, page 2, section 1, reference B, page 2, sections 1-2, wherein an email message is sent to a customer, the message including a URL link to the review/survey, thereby asking the customer to review the product/service of the creator of the review/survey).

Both InstantSurvey and Klingman teach systems that request and accept ratings and reviews from customers regarding items (products or services) received by the customer. Specifically, Klingman teaches providing a review request asking the customer to provide feedback (a review) about impressions of a purchased item and the system electronically transmitting and linking between the interfaces of the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to send out invitation to the review form of Klingman et al. in order to increase the response to the review by notifying the potential respondents of the existence of the review/survey, thus increasing response to the survey/review. See InstantSurvey, reference A, page 2, section 1, reference B, page 2, sections 1-2.

Second, Geerlings teaches sending a communication to a consumer a certain determined amount of time after the purchase of a specific item, initiating the

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communication, and the communication channel of the communication message (See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 13, lines 45-55, wherein a communication is sent to a consumer at a certain scheduled amount of time after the purchase of a specific item. The communication may include email, email files, electronic documents, web pages, etc.).

Geerlings discloses initiating an electronic communication to a customer in response to the purchase of a specific item type at a specific time based on the item purchase. Klingman also discloses after purchase communications with customers, wherein the customer has purchased items such as books. Since Klingman specifically states that a user forms an opinion about the quality of a purchased item based on the usage over a period of time in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, and since it is old and well known that a common way to use a book is to read the book and the time this usage (reading) takes depends on factors such as its length, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the review request link of Klingman to be accessed using the communication scheduling system of Geerlings in order to more efficiently achieve marketing goals by ensuring that pertinent and timely communications are made to customers and to insure the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. See at least column 3, lines 25-40, of Geerlings and column 8, lines 22-25, column 9, lines 9-13 and 41-46, of Klingman.

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10. Claims 18-20, 22-27, 30, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Geerlings (U.S. 5,956,693).

11. As per claims 18, 30, and 32, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving over a network a customer order for an item purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog. Identifications about these orders are stored in a table);

inferring when the customer has evaluated the item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that at least after purchase and after an assumed period of use the customer has evaluated the quality of a purchased item);

providing over the network an electronic review request in response to at least the inference at a time spaced apart from the order, wherein the review request requests that the customer provide a review of the purchased item and includes a link to an electronic review form (See figure 8c, column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 4-10, which disclose providing a review request at a time after purchase/ordering (after verifying that the customer has previously purchased the item, thus the system knows that the customer has had the opportunity to use the item and come to an opinion about its quality), said review request asks the customer to provide feedback (a review) about their impression of the item); and

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receiving the review electronically via the electronic review form (See at least figure 8c, column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer).

However, while Klingman discloses the purchase of an item and inferring a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item is a video, a car, or an audio recording, or that time for evaluation is related to an estimated time it will take the customer to view the video, drive the car a first amount, or to listen to the audio recording.

Geerlings discloses sending a communication to a consumer a certain determined amount of time after the purchase of a specific item (See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 13, lines 45-55, wherein a communication is sent to a consumer at a certain scheduled amount of time after the purchase of a specific item).

However, Geerlings does not expressly disclose the item is a video, a car, or an audio recording or that the certain determined amount of time is based on an estimated time until the customer has viewed the video, driven the car, or listened to the recording.

Klingman discloses evaluations provided by customers for purchased items after a period of use, as stated in column 4, lines 60-62, and column 9, lines 40-45. Geerlings further discloses sending scheduled follow-up communications for purchased items at a specific time, the specific time based on the purchase of a specific item. Since it is old and well known that videos, cars, and an audio recordings are orderable items over a network and that a common way to use these items are to watch, to drive and to listen, respectively, it would have been obvious to one of ordinary skill in the art at the time of

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the invention to consider these features when inferring usage and evaluation of the item in order to increase the reliability of the review provided by the user. See at least column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, of Klingman that states after use over a period of time a user forms an opinion about the quality of an item. Examiner reminds the applicant of the discussion of claims 18, 30, and 32 above as well as the 35 USC 112, second paragraph rejections set forth.

12. As per claim 19, Klingman disclose a method further comprising verifying that the received review is from a customer that ordered the item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying the identity of the reviewer before allowing the reviewer to enter a score. See also column 5, lines 3-6, column 10, lines 58-65, which discloses verifying that the review is from a purchaser who has not yet rated the item (thus not allowing a user to provide more than one rating)).

13. As per claim 20, Klingman teaches a method wherein the review is a textual review including a plurality of words entered by the customer, and further comprising of presenting the received textual review to other customers in conjunction with an indication that the textual review is from a purchaser of the item (Once the reviews are entered, the reviews are presented to other customers in the context that the review comes from a purchaser of the reviewed item. See figure 5, column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 9, lines 30-35 and 41-46, column 12, lines 18-30 and 50-63. See also column 14, lines 27-30, column 11, lines 1-7, column 12, lines 18-30 and 51-63, column 13, lines 9-15 and 40-49, column 18, lines 1-10, column 20, lines 6-9, and

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column 21, lines 10-20, which disclose presenting a customer interested in said item with a review by a purchaser of said item).

14. As per claim 22, Klingman teaches a customer providing a review of a purchased item (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of a review of a purchased item from the customer. See at least figure 5, column 9, lines 30-35 and 41-46, column 12, lines 18-30 and 50-63. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item). However, Klingman does not expressly disclose using the received review to recommend items to the customer.

Geerlings discloses providing the customer personalized recommendations for items similar to the purchased item (See at least column 1, lines 5-15, column 2, lines 20-40, column 3, lines 20-35, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, column 7, lines 50-67, column 10, lines 35-50, and column 13, lines 45-55, wherein filters look at what is purchased and buying behavior and create communications and recommendations to be targeted).

Klingman discloses a system that records identification of a purchase by a customer and allows a purchasing customer to rate the purchased item. Geerlings discloses scheduling and planning communications with customers based on specific product purchases or behaviors, such as complaints. It would have been obvious to one of ordinary skill in the art at the time of the invention to recommend items to reviewing users of Klingman using the communication system of Geerlings in order to more

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efficiently achieve marketing goals by ensuring that pertinent and timely communications are made to customers. See at least column 3, lines 25-40, of Geerlings.

15. As per claim 23, Klingman teaches the received review is used to recommend the item to other customers (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of a review of a purchased item from the customer. See at least figure 5, column 9, lines 30-35 and 41-46, column 12, lines 18-30 and 50-63. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item).

16. As per claim 24, Klingman discloses a method where the inference is based at least on an estimation of how long it will take to evaluate the purchased item (See at least column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses that after purchase of an item and after a period of use the customer has evaluated the quality of a purchased item).

17. As per claim 25, Klingman does not expressly disclose a method where the review request is selectively delivered on one of a weekend and a holiday.

Geerlings discloses where the communications are delivered electronically and the communications delivery would be planned and scheduled (See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 13, lines 45-55, wherein a communication is sent to a consumer at a certain scheduled amount of time after the purchase of a specific item).

However, Geerlings does not expressly disclose that the communications are sent on a weekend or holiday.

Klingman discloses a system that records identification of a purchase by a customer and allows a purchasing customer to rate the purchased item. Geerlings discloses scheduling and planning communications with customers at a certain period of time after the purchase of a specific product. It would have been obvious to one of ordinary skill in the art at the time of the invention to send out the review request of Klingman using the communication planning and scheduling system of Geerlings in order to more efficiently achieve marketing goals by ensuring that pertinent and timely communications are made to customers. See at least column 3, lines 25-40, of Geerlings.

Furthermore, Geerlings teaches that a communications delivery would be planned, scheduled, and customized to meet the marketing strategy of the merchant. It would have been obvious to one of ordinary skill in the art at the time of the invention to choose to deliver a review request on a weekend or a holiday because doing so would increase the likelihood of response by the consumer due to the fact the consumer has free time on weekends and holidays to pay bills, read newspapers, reply to surveys, run errands, etc. Furthermore, it is old and well known that unlike mail, the time frame for delivery of email can be distinctly chosen.

18. As per claim 26, Klingman discloses a method where a purchase and a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item); and

an item purchased can be a book (See column 12, lines 35-42).

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However, neither Klingman or Geerlings expressly disclose that the inference is based at least on a customer survey of how long it takes consumers to read books.

It would have been obvious to one of ordinary skill in the art at the time of the invention to make an inference based on a consumer survey about books in order to form an opinion based on a consumer survey about the length of time it takes consumers to read books because doing so would provide the estimator with more accurate information with which to base his/her estimations. Furthermore, consumer surveys are old and well known in the art.

19. As per claim 27, Klingman discloses a method wherein a purchase and a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses not being able to review an item until after purchasing and item and using an item to form an opinion about the quality of said item);

having a customer enter information into an order form (See column 14, lines 41-46); and

storing a Customer ID in an id table about the purchase so the customer would later review the purchased product (See at least column 10, lines 45-65).

However, Klingman does not expressly disclose making inferences based on the customer ordering a second item.

Geerlings teaches making an inference based on the customer ordering multiple items (See at least column 10, lines 15-20).

Klingman discloses a system that records identification of a purchase by a customer and allows a purchasing customer to rate the purchased item. Geerlings

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discloses scheduling and planning communications with customers at a certain period of time after the purchase of a specific product and based on behavior and shopping patterns of the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to make inferences using the purchasing patterns of Geerlings in order to more efficiently achieve marketing goals by ensuring that pertinent communications are made to customers. See at least column 3, lines 25-40, of Geerlings. It is known in the art that customers that purchase products of a specific brand multiple times would be likely to purchase these brands again (i.e. brand loyalty).

20. As per claim 33, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving over a network a customer order for an item purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog. Identifications about these orders are stored in a table);

inferring when the customer has evaluated the item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that at least after purchase and after an assumed period of use the customer has evaluated the quality of a purchased item);

providing over the network an electronic review request in response to at least the inference at a time spaced apart from the order, wherein the review request requests that the customer provide a review of the purchased item and includes a link to an electronic review form (See figure 8c, column 4, lines 20-25 and 55-62, column 10, lines 40-41, and

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column 11, lines 4-10, which disclose providing a review request at a time after purchase/ordering (after verifying that the customer has previously purchased the item, thus the system knows that the customer has had the opportunity to use the item and come to an opinion about its quality), said review request asks the customer to provide feedback (a review) about their impression of the item); and

receiving the review electronically via the electronic review form (See at least figure 8c, column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer);

wherein the item purchased is a book, a time to evaluate an item after purchase, and inferring when the customer has evaluated the item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, discussing forming an opinion about the item's quality based on use over a period of time. See column 12, lines 35-42, wherein the item purchased and reviewed is a book).

However, while Klingman discloses a book purchase and inferring a period of use before evaluating the purchased item (see column 9, lines 41-46), Klingman does not expressly disclose that time for evaluation is related to the type of book.

Geerlings teaches sending a communication to a consumer a certain determined amount of time after the purchase of a specific item (See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 13, lines 45-55, wherein a communication is sent to a consumer at a certain scheduled amount of time after the purchase of a specific item).

However, Geerlings does not expressly disclose determining this amount of time for the specific item based on the type of book.

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Klingman discloses follow-up evaluations provided by customers for purchased items, such as books, after a period of use, as stated in column 4, lines 60-62, and column 9, lines 40-45. Geerlings further discloses sending scheduled follow-up communications for purchased items at a specific time, the specific time based on the purchase of a specific item. Since Klingman specifically states an opinion about the quality of the purchased item is formed after a period of usage in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, and since it is old and well known that a common way to use a book is to read the book and the time this usage (reading) takes depends on factors such as the books type, it would have been obvious to one of ordinary skill in the art at the time of the invention to consider this feature when inferring usage and evaluation of the item in order to increase the reliability of the review provided by the user. See at least column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, of Klingman that states after use over a period of time a user forms an opinion about the quality of an item. Examiner reminds the applicant of the discussion of claim 33 above as well as the 35 USC 112, second paragraph rejections set forth.

21. As per claim 34, Klingman discloses reviews by customers (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18). However Klingman does not expressly disclose receiving at least one e-mail address provided by the first customer, the email address being that of a person other than the first customer, and forwarding the review to the e-mail address. Klingman further does not disclose that the item is a gift for the person other than the first customer.

Geerlings discloses receiving at least one e-mail address provided by the first customer, the email address being the preferred communication channel of the user, and

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forwarding the communication after purchase to the e-mail address (See at least column 1, lines 5-15, column 2, lines 20-40, column 4, lines 20-47 and 55-67, column 5, lines 1-20 and 35-55, and column 6, lines 1-15, wherein an email address is provided by the first user and the communication is sent to this email address).

Klingman discloses a system that records identification of a purchase and allowing a purchasing customer to rate the purchased item after a period of user (i.e. Klingman ensures that a rater has actually bought and preferably used the product prior to review). Geerlings discloses scheduling and planning communications with customers based on specific product purchases and provided email addresses (i.e. information is provided and recorded at time of purchase and used for further communications). It is known in the art of e-commerce that a purchaser will provide "bill to" and "ship to" contact information at the time of purchase and that these will be different in the case of a gift purchase. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user of the product with the review request (i.e. targeted communication) in order to more efficiently achieve marketing goals by ensuring that pertinent and timely communications are made to customers who are users of the product. See at least column 3, lines 25-40, of Geerlings, and Klingman, column 9, lines 5-20 and 40-50.

22. As per claim 35, Klingman discloses a method wherein the review includes a textual review (See at least figure 5, column 11, lines 1-7, column 12, lines 18-30 and 51-63, column 13, lines 9-15 and 40-49, column 18, lines 1-10, and column 21, lines 10-20, wherein the review includes textual reviews).

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23. Claims 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) and Geerlings (U.S. 5,956,693) in view of Epinions.com (screenshots of www.epinions.com from archive.org).

24. As per claim 21, Klingman teaches that the first customer review is presented via a web page to the second customer (See at least figure 5, column 9, lines 30-35 and 41-46, column 12, lines 18-30 and 50-63. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer the review on a webpage). However, neither Klingman or Geerlings expressly disclose that the review is presented associated with a name of the first customer.

Epinions discloses that the review is present in association with a name of the first customer (See at least pages 1, 8, and 20, which disclose presenting the review with the name of the person that provided the review).

Klingman discloses a system that records identification of a purchase by a customer, allows the purchasing customer to rate the purchased item, and allows other users to view the rating and comments of the purchasing customer. Epinions discloses a user entering and presenting a review of an item to a second user, the review presented along with the name of the user who provided the review. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the name of the reviewing user in the ratings and comments of Klingman in order to increase a user's trust in the ratings presented by providing the knowledge of who entered the information. See pages 2 and 4 of Epinions, which discusses the building of trust in the reviews.

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25. As per claim 29, Klingman teaches a first customer providing a review (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt a review from the customer). However, Klingman and Geerlings do not expressly disclose offering a reward in exchange for providing a review, wherein the reward is provided if the review satisfies a first condition, or providing a financial reward after receiving the review.

Epinions discloses offering a reward in exchange for providing a review, wherein the reward is provided if the review satisfies a first condition, and providing the financial reward after receiving the review (See pages 8 and 9, wherein a reward is provided to the user if the review satisfies a condition of being viewed and royalties (which may be redeemed for cash) are provided after the review is received).

Klingman discloses a system that records identification of a purchase by a customer, allows the purchasing customer to rate the purchased item, and allows other users to view the rating and comments of the purchasing customer. See at least column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item. Epinions discloses a user entering and presenting a review of an item and the user being rewarded for providing the review after the review is received. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to offer the purchaser of Klingman a reward for providing a review after the review is received in order to increase the response rate of purchasers in providing reviews by offering an incentive to participate. Offering customers incentives to participate in surveys and review is well known in the art.

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26. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) and Geerlings (U.S. 5,956,693) in further view of Chislenko et al. (U.S. U.S. 6,092,049).

27. As per claim 28, Klingman teaches allowing a user to rate a previously purchased item, presenting to the customer an item purchased by the customer and allowing the user to choose whether or not he/she wants to rate said item (See at least figure 5, column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying that the prospective reviewer purchased the item before allowing a score to be entered. The purchaser has the ability to choose to rate the item or not based on the way they feel towards the product. See column 10, lines 41-46).

However, neither Klingman nor Geerlings expressly disclose presenting the customer with a list of items or asking the customer.

Chislenko et al. teaches presenting to the customer a list of items purchased by the customer and asking the customer if the customer wants to review one or more of the listed items (See column 4, lines 5-9, which disclose presenting a customer with a list of items and asking the customer to rate the list of items).

It would have been obvious to one of ordinary skill in the art at the time of the invention to present the customer with a list of items purchased and ask the customer to review one or more of the items because it increases the flexibility of the system and also makes the system more user friendly. When a consumer has purchased more than one product in any given time period, this functionality would remind a consumer about

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which multiple items were purchased as well as allow them to choose between the items purchased and pick which ones he/she feels strongly about.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

NetPerceptions (www.netperceptions.com) discloses personalized product recommendations using collaborative filtering and past reviews of a user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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